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FM AMEMBASSY SARAJEVO

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RUEHBS/USEU BRUSSELS PRIORITY

RHEFDIA/DIA WASHINGTON DC PRIORITY

RUEKJCS/JCS WASHINGTON DC PRIORITY

RHEHNSC/NSC WASHDC PRIORITY

RUEKJCS/SECDEF WASHDC PRIORITY

RUFOAOA/USNIC SARAJEVO PRIORITY

RUEAWJA/DEPT OF JUSTICE WASHINGTON DC PRIORITY

RHMFISS/DEPT OF HOMELAND SECURITY WASHINGTON DC PRIORITY

C O N F I D E N T I A L SECTION 01 OF 03 SARAJEVO 001625

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DEPARTMENT FOR EUR (DICARLO), EUR/SCE (STINCHCOMB, FAGAN,
HOH), EUR/ACE (DUNN, TEFFT), S/WCI
(WILLIAMSON/LAVINE/DINICOLA); NSC FOR BRAUN

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TAGS: PGOV PHUM ICTY KAWC KCRM KJUS PREL BK

SUBJECT: BOSNIA: DONOR CONSENSUS GROWS FOR BUILDING A STATE
PRISON

REF: A. SARAJEVO 1503

¶B. SARAJEVO 1212

Classified By: DCM Judith B. Cefkin. Reasons 1.4 (b) and (d).

¶1. (C) Summary: Radovan Stankovic's escape from Foca Prison in the Republika Srpska dramatically demonstrated the legal and physical shortcomings of housing convicted war criminals and other dangerous convicts in entity prisons. Stankovic's case has galvanized the international community to reexamine Bosnia's plan to construct a State prison. Donors who were previously skeptical about funding the ambitious 14.5 million euro facility are now willing to make contributions totaling 10 million of the necessary 14.5 million euros (see table, paragraph 12). The Bosnian government plans to spend 2 million euros on the project. A price tag that once seemed too high is now within reach. However, the Europeans hope -- and the Bosnians seem to expect -- that the U.S. will also contribute to the effort. We are reexamining our funding and will advise as to Post's recommendations on this matter. End summary.

Overview of Bosnia's Prisons

¶2. (U) As in other countries, local penal philosophy has shaped the physical and legal structures here. Bosnians place high priority on rehabilitating individuals and facilitating their reintegration into society. Thus, life in Bosnian prisons is deliberately made as normal as possible, and semi- or unsupervised contacts with the outside world are maximized. In fact, these contacts are legal entitlements. The system is ill-equipped to handle violent, mentally-ill or other prisoners with unusual circumstances.

¶3. (U) The degree of access to the outside world via work passes, weekend leave and even yearly "vacation" is determined solely by the prisoner's conduct in jail, regardless of the severity of the crime committed. The total prison population in Bosnia (approximately 2,600) is among the lowest in the Balkans, but existing facilities are operating at 105 percent of capacity. This overcrowding

reinforces the institutional tendency towards maximizing prisoners' access to the outside world.

War Criminals In the Penal System

¶4. (U) There are 14 prisons in Bosnia. Convicted war criminals serve their sentences at one of the two "closed" (high security) prisons: Zenica in the Federation, or Foca in the Republika Srpska (RS). The other facilities are considered medium to low security. All were built in the 1890s and are in varying stages of dilapidation. Even at the "closed" prisons, war criminals mix freely with the rest of the prisoners and opportunities for contact with the public, while more limited, still exist.

¶5. (U) The Federation, RS, Brcko District and State of BiH have similar but separate laws on the Execution of Criminal Sanctions. The State law specifically precludes convicted war criminals from being eligible for privileges related to unsupervised access to the outside world. So far, the State law's more stringent regime for war criminals has never been used, because, until recently, it only applied to State institutions (i.e., the non-existent State prison).

¶6. (U) Following the High Representative's July 10 exercise of the Bonn Powers on this issue (REF A), State rules concerning privileges will henceforth apply in entity prisons to war criminals who are convicted at State Court. On July 18 the RS National Assembly amended the RS penal code to deny leave privileges to war criminals convicted in RS courts. The High Representative announced that OHR would encourage Federation and Brcko District law makers to follow suit. In the meantime, the danger remains that war criminals convicted

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in Brcko District or the Federation, enjoying the same privileges as other entity-convicted prisoners, could still take advantage of unsupervised leave to intimidate victims, retaliate against witnesses or flee the country. Prosecutors report these scenarios have played out in some organized crime cases.

¶7. (U) The May 26 escape of convicted Bosnian Serb war criminal Radovan Stankovic (REF B) dramatically focused public attention on an additional problem with the current situation. Because the State does not have its own prison, convicts must, by law, serve their sentence in the "closed" prison closest to their area of origin. Thus, for example, because there was no State prison in which to house Stankovic, as a Foca native he went instead to Foca prison. There, he was able to exploit the liberal environment and sympathetic local Serb population to affect his escape.

Prospects for Funding State Prison Construction

¶8. (U) In September 2005, the State Court Registry finalized the architectural plans and budget for a modern, 300 bed State prison, at a total construction cost of 14.5 million euros. In November 2006, the BiH government purchased from the Ilijadza municipality a former Yugoslavian Army firing range in Lukavica (a Sarajevo suburb on the RS side) as the building site. The land was chosen partly for its proximity to State Court. The BiH government also spent 1 million euros from the 2007 State budget to prepare the ground for construction.

¶9. (C) On July 11, 2007, Assistant Justice Minister Srdjan Arnaut and Justice Minister Colak's Chief of Cabinet Jadranka Matic met with representatives from the Netherlands, Sweden, European Commission and USG to inform them of the State's progress. He said the Ministry had identified these governments as most likely to be interested in providing financial support. Arnaut explained that, considering the magnitude of the project, the Bosnian government was anxious

that full funding be secured before it put out the construction tender. He assured the internationals that, in addition to having purchased the land, the BiH government would further contribute at least 2 million euros (1 million euros each from the 2007 and the 2008 budgets). Matic admitted the government had no Plan B to fall back on if international pledges failed to total the remaining 12.5 million euros. The project design team said the 2005 budget had been reviewed, and the few cost cuts that could be made would be negated by the increased cost of construction materials and the new 17 percent Value Added Tax (VAT) that Bosnia adopted in January 2007.

¶10. (C) The Dutch representative said his government had set aside 3.9 million euros from the 2007 Stability Fund in The Hague for the State prison. However, it would release this money only once the remaining amount had been secured, at least via written commitments from other donors. The EC representative predicted the Dutch condition would be difficult to meet in the near term. She noted that the EC currently looked favorably on Bosnia's request for 3.5 million euros from the EC, but the EC would not decide formally until spring 2008. The Swedish government representative said his government intended to contribute, but only if Bosnia incorporated the State prison into a broader plan for national prison reform. (Note: He subsequently told us Sweden could give 2.3 million euros. End note.)

¶11. (C) If the EC, Swedish, Dutch and Bosnian pledges are realized, non-U.S. international donations would a total of 12.0 million euros. As to the remainder, the Europeans said even a modest U.S. contribution would send an important message of political support, and could help attract additional donors. Arnaut and Matic said several times that they hoped the U.S. would give "3-4 million euros."

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Budget Table

¶12. (C) Prison Project Budget (in euros)

Project Construction Total: 14.5 million

Potential Pledges to Date (in euros)

- Bosnia: 2.0 million (1.0 million of this already spent)
- Netherlands: 3.9 million
- EC: 3.5 million
- Sweden: 2.6 million

- Total: 12.0

Needed Funds Remaining: 2.5 million

Conclusion

¶13. (C) We have been skeptical about supporting the State Prison Project in the past. As Bosnia's SEED budget has diminished, we have tended to shy away from costly structural projects. However, there is growing consensus among donors that Bosnia needs a State prison to cope with the increasing number of convicted war criminals and to forestall incidents like the Stankovic escape. Despite recent changes to the State penal code imposed by the High Representative, entity prisons are neither physically nor legally suited to the task. In response to a direct appeal from the BiH Ministry of Justice, the Netherlands, Sweden and the European Commission are discussing under what conditions each might provide partial funding. However, it is clear from our conversations with them and with the Bosnians that the Europeans hope -- and the Bosnians seem to expect -- a U.S. contribution. They argue that U.S. financial aid, no matter

how modest, would send an important signal of political support for Bosnia's efforts to strengthen its war crimes regime, and would help attract other donors. With SEED resources declining, we will need to make some difficult trade-offs on funding decisions. Embassy will review our SEED funding plans with an eye to trying to make some money available for the State Prison Project and will provide the Department soon with our recommendation.

MCELHANEY